

**Minutes
Bar Harbor Planning Board
November 4, 2009
Council Chambers – Municipal Building
93 Cottage Street**

I. CALL TO ORDER — 6:00 p.m.

Members Present: Kevin Cochary, Chair; Buck Jardine, Secretary. Also present: Anne Krieg, Planning Director; Brian Madigan, Staff Planner; Lee Bragg, Town Attorney.

II. EXCUSED ABSENCES

Mr. Jardine moved to excuse Ms. Williams. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.

III. ADOPTION OF THE AGENDA

Mr. Cochary stated that he would like to amend Agenda item A under Regular Business to discuss his upcoming absence.

Mr. Jardine moved to amend the Agenda and make a discussion of Kevin's upcoming absence as Item A under Regular Business. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.

IV. APPROVAL OF MINUTES

October 21, 2009 Minutes

Review of the October 21, 2009 minutes was deferred to the November 18, 2009 Planning Board meeting.

V. REGULAR BUSINESS

Mr. Cochary stated he would be absent for the next two and one half months due to job related commitment which will require him to be out of the state. Ms. Krieg stated the Planning Department will look into teleconferencing or video conferencing as a means to allow Mr. Cochary to continue to participate in the meetings.

Ms. Steven-Rosa stated she felt it would be important for Mr. Cochary to continue to participate in the meetings. Mr. Jardine stated he had concerns regarding Mr. Cochary's ability to review project related information that is presented visually during meetings. Ms. Meader stated there would be no legal issues which would preclude Mr. Cochary from continuing to participate via teleconference or video provided that Mr. Cochary is able to achieve the same level of participation as if he were present. Ms. Krieg stated that the Planning Department will work on a resolution.

A. Continuation of Public Hearing – SP-09-02 – West Street Hotel

Project Location: West Street, Bar Harbor Tax Map 104, Lots 113-118, 122, 123, 143, 144, 146, 147, 149

Applicant: North South Construction Inc.

Application: Hotel and Accessory Uses

Mr. Salvatore introduced John Theriault, the traffic engineer who prepared the traffic study associated with this project. Mr. Theriault provided an overview of how he conducted the traffic study and arrived at the conclusions stated in the report. He reviewed the intersection turning counts and trips generated both under the current conditions (a no-build scenario) and with the addition of the hotel (build scenario). He stated that because the proposed hotel will replace existing businesses, the actual number of trips added as a result of the hotel is quite low. Mr. Theriault then reviewed his analysis of the intersection and turning movement counts. The level of service at all intersections would operate at Level of Service B or better even with the addition of the proposed hotel.

Mr. Theriault and Mr. Hamilton then discussed the relevant traffic review standards that apply from the Land Use Ordinance. Mr. Theriault stated that in his opinion, the project would comply with the Land Use Ordinance. He added that another positive result of the project would be the elimination of three curb cuts on West Street which would increase safety for pedestrians.

Ms. Krieg reviewed the results of the October 28, 2009 Parking and Traffic Committee meeting. She stated that at this meeting the committee amended a previous motion which recommended Rodick Street be a partial two-way street. The motion was amended to recommend that Rodick Street be kept a one-way street. Ms. Krieg stated that the traffic study should be modified to analyze a scenario where Rodick Street will remain a one-way street with the addition of the hotel. Mr. Hamilton stated that he does not believe the Planning Board is in the position to take this recommendation because Ms. Krieg made the motion at the Parking and Traffic Committee meeting. He stated that he believes that the fact Ms. Krieg made the motion presents a fundamental bias.

Ms. Krieg stated that as a professional planner, she cannot recommend making Rodick Street a partial two-way street. She added that this is not good planning practice and stated that she has many concerns with the safety of a partial two-way street. Ms. Krieg reiterated that she is trying to help the project move forward through the review process as ultimately the change in direction proposed by the applicant would need to go before the Parking and Traffic Committee. She added that if the Planning Board would like a second opinion, the Board is empowered to request a peer review of the traffic study.

Mr. Cochary and Ms. Stevens-Rosa iterated their support for Ms. Krieg and her role as Planning Director.

Mr. Hamilton reiterated concern for Ms. Krieg's duality of office in this matter.

Mr. Theriault read a verbal response to the Parking and Traffic Committee's comments he received at the October 28, 2009 meeting. Mr. Theriault stated that he would submit a written copy of his statement tomorrow.

Ms. Krieg and the Board discussed the regulatory permitting process involved with making changes to Town right-of-way and the role of the Planning Board, Parking and Traffic Committee, and Town Council.

Mr. Jardine asked Mr. Theriault to explain "peak hour" and its importance in relation to this review. Mr. Jardine asked if there is a peak hour for hotels and if that coincides with the peak hour Mr. Theriault found for this particular project. Mr. Theriault said he analyzed both peak hour with the development and peak hour for the town to present a conservative estimate.

Mr. Cochary commented that he had concerns with traffic queuing on to West Street. Mr. Salvatore stated that additional parking added at the rear of the hotel would alleviate the possibility of cars stacking on to West Street. Mr. Cochary asked if the traffic study accounts for the arrival of a bus and the impact this would have on traffic. Mr. Salvatore stated that if a bus is checking in, then other cars checking in would have to use bypass lane. Mr. Walsh commented on the merits of the project. He stated that he feels he has done all he can do to meet the concerns of the Town.

Mr. Cochary asked the Board to comment on the need for third-party review of the traffic study. Ms. Stevens Rosa stated she is comfortable with the explanation received. Mr. Jardine agreed.

Mr. Moore provided his interpretation of the definition of a front yard, side yard, and rear yard. He stated that it is important to consider that a yard extends across a lot. He added that every part of the yard that is in front of the building should be considered as the front yard. He described his reasoning for counting the greenspace areas within the "nooks and crannies" of the façade. Ms. Meader rebutted stating that she stands behind her interpretation of the definition of a front yard.

Mr. Jardine moved to continue the project to the November 18, 2009 Planning Board meeting. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.

B. Continuation of Public Hearing – SP-09-05 – Proposed Verizon Wireless Telecommunications Facility

Project Location: 854 State Highway 3 Bar Harbor Tax Map 202, Lot 061

Applicant: Verizon Wireless

Application: Construct a wireless telecommunications facility at 854 State Highway 3 (also known as the Sweet Pea Farm)

Mr. Anderson, the project representative, provided an overview of the status of the project. He noted that the applicant submitted a proposed branch layout and that they had followed up with John Kelly at the Park Service on his requests. Mr. Anderson gave an explanation of the branch diagram that was submitted to the record. He also explained the terms of the lease agreement which describes a “no cut zone” around the tower.

Mr. Anderson noted that he has worked in good faith to complete the tasks asked by the Board and Mr. Kelly. He asked that the Board make a decision on the project.

Mr. Kelly, Planner for Acadia National Park, read a statement of support for the proposed tower into the record. He added that he hopes the proposed tower design will serve as a model for the rest of Bar Harbor.

Ms. Krieg stated that she would be comfortable with granting a modification of standard with respect to the driveway width because it would be used so infrequently. Mr. Cochary asked the Planning Department to develop a category in LUO for infrequently used driveways.

Ms. Stevens-Rosa moved to allow the modification of standards requested to address the particular site characteristics. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

Mr. Anderson stated he would like the detail of the tower base to be made a condition of approval.

Ms. Krieg reviewed the ordinance provisions that apply to the proposed project from Section 125-69(T) of the Land Use Ordinance.

Mr. Jardine moved to close the public hearing. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.

Ms. Stevens Rosa moved to conditionally approve the project with the modification standards already granted and provided the applicant submits performance guarantee's and a monitoring plan to the Code Enforcement Officer. Mr. Jardine added a detail of the tower base also be made a condition of the motion. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

C. Continuation of Public Hearing – SD-08-04 – Vicki Hall Subdivision

Project Location: Eagle Lake Road (near the entrance of MDI High School), Bar Harbor Tax Map 224, Lot 15

Applicant: Vicki Hall

Application: Project proposes to divide one lot into two parcels.

Mr. Cochary recused himself and exited the chambers.

Mr. Musson, the project representative, gave an explanation of the proposed project. He stated that he had spoken with the Park about their concerns on the project. Mr. Musson stated that he revised the proposed buildable area and removed a portion of the buildable area from development. Mr. Musson also presented a proposed shared driveway agreement to further maintain wetland areas.

Mr. Jardine asked what would happen if the culvert were not maintained. Mr. Musson stated the wetlands would cease to connect via the culvert. Mr. Jardine asked Mr. Musson to further explain the buildable area limitations. Mr. Musson stated that the recorded deed would reflect that the small area on the second lot that is buildable from a setback standpoint, would no longer be buildable due to its proximity to the wetland.

Mr. Kelly stated the definition of a wetland and argued that without the driveway the wetlands would be connected. Ms. Krieg stated that the building envelope would be part of the Board's approval. The CEO would then have to make sure the structures are put inside those building envelopes.

Ms. Stevens-Rosa moved to close the public hearing. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

Ms. Stevens-Rosa moved to approve the application with the revised driveway agreement added to the plan. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

D. Continuation of Completeness Review- SP-09-07 – Proposed AT&T Mobility Wireless Telecommunications Facility

Project Location: 286 State Highway 3 Bar Harbor Tax Map 209, Lot 106

Applicant: AT&T Mobility

Application: Construct a wireless telecommunications facility at 286 State Highway 3 .

Since the Applicant had not had sufficient time to prepare his proposal following the Site Visit, Mr. Jardine moved to continue the completeness review to the November 18 Planning Board meeting. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.

E. OTHER BUSINESS

a. June 2010 Land Use Ordinance amendment update and discussion.

Ms. Krieg stated that she will be looking for some agenda time to review the streets ordinance in December. Mr. Madigan stated he would be reviewing the Village Residential and Village Historic Districts with the Board at their November 18, 2009 meeting.

F. PLANNING DIRECTOR'S REPORT

a. Follow up on status of joint meeting with Planning Board and Town Council for Town Hill Mini Plan.

Ms. Krieg stated that she has scheduled the joint workshop with the Council and Planning Board for December 9.

G. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

H. ADJOURNMENT

Ms. Stevens Rosa moved to adjourn the meeting. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion. The meeting was adjourned at 8:25pm.

Minutes prepared by Staff Planner Brian Madigan for Planning Board Review at their November 18, 2009 meeting

Signed as approved:

Clyde L. Jardine, Jr., Secretary
Planning Board, Town of Bar Harbor

Date